



Schwaninger & Associates, P.C. Attorneys at Law

1331 H Street, N.W., Suite 500, Washington, DC 20005

Internet Address - <http://www.sa-lawyers.net>

telephone - (202) 347-8580

facsimile - (202) 347-8607

Robert H. Schwaninger, Jr.
Richard P. Hanno

Vic Jackson
Interconnection Consultant

September 29, 2004

Michael Wilhelm, Chief
Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 Twelfth Street, S.W., 4th Floor
Washington, D.C. 20554

Re: **900 MHz Application Freeze (DA 04-3013)**
(WT Docket 02-55)

Opposition To Freeze Notice On Behalf Of
Advanced Metering Data Systems, L.L.C.

Dear Chief Wilhelm:

We represent the interests of Advanced Metering Data Systems, a provider of wireless data systems for the monitoring and delivery of electric power by utility companies throughout the United States. AMDS' system employs 900 MHz channels to deliver critical information regarding the status of electric usage and to backhaul to service providers necessary data regarding outages. AMDS' equipment has been instrumental in assisting utility providers in identifying outages arising from recent hurricanes and other natural disasters, allowing repair crews to respond rapidly and to bring service back to customers in a manner that serves greatly the public's need for electrical service.

AMDS has carefully considered the Bureau's recent freeze on the acceptance of 900 MHz applications and the response to that freeze filed by the United Telecom Council. AMDS supports and concurs with the analysis provided to the Bureau by UTC in its letter of September 23, 2004. The justification provided by the Bureau for its action cannot be supported by a plain reading of the Commission's Order in WT Docket No. 02-55. Nor can the freeze be supported by any reasonable effort to spare the agency's administrative resources and to assure fidelity to the Commission's processes.

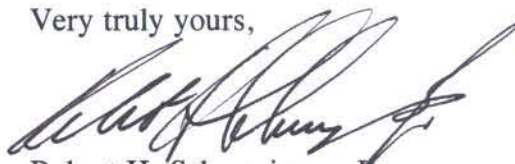
AMDS was aware of the consolidation of 900 MHz spectrum by ACI 900, Inc., a wholly owned subsidiary of Nextel Communications, Inc., and was surprised that the Bureau did not take immediate steps to halt ACI 900, Inc.'s efforts to improperly tie up these scarce spectrum resources via applications which are entirely disingenuous on their face. The content of the applications states that the use of the channels by ACI 900, Inc. will be for non-commercial internal purposes. In plain language, this statement within the applications defies logic and must be viewed, without substantial supporting information, as simply false.

What is further vexing is that the Bureau's analysis in its freeze notice does not consider the repeated claim within the applications. If the intended use of the ACI 900, Inc. proposed systems is only to provide internal communications needs to this hollow entity, then what possible application would the channels have to providing "green space" to Nextel Communications, Inc. to assist it in rebanding the 800 MHz spectrum? And if the intent of the applications is to create additional spectrum reserves for Nextel Communications, Inc. to employ in a manner suggested by the Bureau in its freeze order, then the statements made within the applications pursuant to 18 U.S.C. §1001 and 47 C.F.R. §1.17 are in contradiction to this intended purpose.

Given these obvious contradictions, the Bureau was positioned to simply dismiss the applications. If the Bureau required additional information prior to taking this step, the Bureau could have demanded from ACI 900, Inc. that it immediately provide additional information in accord with 47 U.S.C. §308(b) that demonstrated with certainty that the applications were filed in good faith and did not evince an abuse of the Commission's processes. This stated, the Bureau's response via the freeze notice impedes the use of the 900 MHz band for all PLMR licensees and directs the agency's focus away from protecting the rights of legitimate applicants while providing an unnecessary, improper, and legally unsupportable boon for Nextel aka ACI 900, Inc. AMDS respectfully states that the Bureau's action is a wholly incorrect response to ACI 900, Inc.'s attempt at improper consolidation of the spectrum.

Accordingly, AMDS joins with UTC in its objection to the freeze and concurs with UTC that the ACI 900, Inc.'s applications are inappropriate, disingenuous, and subject to summary dismissal, in conjunction with an immediate lifting of the freeze.

Very truly yours,



Robert H. Schwaninger, Jr.
Counsel for Advanced Metering Data
Systems, L.L.C.

cc: Marlene Dortch, Secretary
Robin Cohen, ACI 900, Inc.
Jill Lyon, United Telecom Council